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THE ROLE OF THE ORGANIZED BAR IN MEETINGTHE PROBLEM OF CRIME AND ITS CONTROL

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The Organized Bar at the national level has in the past offered much valuable assistance to law enforcement. The American Bar Association's projects on minimum standards of criminal justice and the American Bar Foundation's materials on our system of criminal justice have been invaluable research tools. The American Law Institute has produced several very useful drafts of Pre-Arrestment procedure, good portions of which we have recently incorporated into a general order on admonitions. We anticipate further reliance upon their work. The Law Enforcement Assistance Administration, with the aid of many scholarly members of the Bar, has made available to police departments a series of Police Guidance Manuals, written by Professors Goldstein and Schwartz. The Ford Foundation, through the Northwestern Law School, has been training and making available police legal advisors in many cities.

The deficiencies, as I see them, lie not so much at the national level, but at the local level--the level of implementation. Only of late has there been an effort by the Lawyers' Committee for Civil Rights Under Law--a national committee of outstanding members of the bar formed at the request of President Kennedy in 1963 and of which the first co-chairmen were Mr. Segal [Bernard G. Segal, President-Elect of the American Bar Association and a member of the present panel] and Harrison Tweed--to involve the Bar in the problems of law enforcement at the local level. The Lawyers' Committee, indeed, is seeking to involve volunteer attorneys in all facets of the urban crisis and has called upon numerous law firms, both large and small, to make available both associates and partners on firm time. It is in influencing the establishment of such policies that the organized Bar can play a major role. By endorsing such a volunteer program, the organized Bar would encourage the ready availability of young, competent attorneys to assist in the solution of our cities' major problems, whether in the development of black economy or the reduction of community hostilities toward the police.

John Gardner of the Urban Coalition and former Secretary of Health, Education and Welfare, went so far as to suggest in a major

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address to the American Bar Association in Philadelphia last summer that law firms should tithe for the public good. That is, that one tenth of chargeable time should be donated to the effort to solve the problems of the nation. Local Bar Associations, whether or not willing to go quite so far as a tithe, should at least support the general proposition of voluntary assistance to the cities. A Bar Committee should be established to study and re-evaluate the present allocations of donated time by attorneys and seek to establish priority guidelines. Legal assistance donated to the traditional charities may be far less important today than assistance in the direct fight against poverty, crime and community deterioration. To what charitable organizations do lawyers give their time, and are the charitable works relevant and meaningful when balanced against the needs of America today?

Widespread endorsement of volunteer assistance programs, moreover, should encourage competent attorneys to join corporate practice with greater eagerness. Recent years have demonstrated a serious reluctance on the part of law school graduates to enter a legal practice that is devoid of social significance.

Much more, however, can be accomplished by the organized bar. Other bar committees can achieve significant in-put into the law enforcement process. The Seattle Police Department and the Seattle-King County Bar Association, with the direct assistance of the national Lawyers' Committee, have, to my knowledge, taken the lead in this area. The senior bar has maintained a Law Enforcement Committee comprising perhaps the most prestigious members of the Bar in Seattle. The Committee is organized primarily to give the Police Department public and private assistance in areas that the Committee considers in the public interest. The Committee has supported and influenced a City Council decision to establish a detoxification center for the indigent alcoholic. An astounding proportion of police man-hours are spent in the arrest and processing of those persons arrested for drunkenness. The detoxification effort was an attempt to release the police from this seemingly unnecessary burden, and at the same time, to free the courts for other, more significant criminal litigation. The Committee has arranged for the Bar Association to sponsor, under contract with the City, a revision of municipal criminal ordinances. One or two representatives from the Police Department will serve on the municipal criminal law revision commission.

The Committee Chairman was influential in obtaining a \$50,000 grant for the Department for the purpose of "sensitivity training" of approximately fifty police officers. The training sessions have recently been completed, with a very enthusiastic endorsement by the participants. A subcommittee of the group, convinced that the criminal justice system would benefit from more communication between judges and police officials, met with the local judge most deeply involved in criminal matters, to encourage him to discuss problems of mutual concern with

the relevant police officials. Meetings now occur quite frequently, and as a result of these discussions the judge has suggested guidelines to the police in making certain types of arrests; the Department and the Probation authorities have been able to coordinate much more effectively; the judge has agreed to set aside a special room just outside his court in which police officers waiting to testify can study, prepare reports, or otherwise spend their time more productively than by sitting in the courtroom; and other matters, formerly undiscussed, have been resolved.

As the senior bar committee operates primarily through the advantage of its prestige, a junior bar committee, under the auspices of the senior committee, has recently formed to provide direct legal assistance to the Police Department through the office of the police legal advisor. These attorneys have to date assisted in a civil service matter, advised the Department how to respond to broad interrogatories, and, most significantly, have provided several attorneys to represent the Department by continuously advising as to the availability of federal grant money, drafting requested grant applications, and meeting with appropriate agencies in seeking to obtain the requested funds. The junior bar committee, finally, is preparing a memorandum for the Chief concerning the possible use of equitable remedies in mass disorder. A package of equitable decrees will be compiled for ready use, and the attorney working on the project will be on-call to the Department in the event of disorder.

One member of the Committee, a professor at the University of Washington Law School, has made four law students available to the Department's legal advisor. The students serve as part-time research assistants and receive law-school credit for their work. One student is assisting the Department in seeking legislation for the authorization of wiretap in the fight against organized crime; one is studying the Internal Investigations Division and assisting with the preparation of a general order setting forth the procedures governing the handling of internal complaints against police officers; one is assisting the Department in the preparation of affidavits that are specific enough to obtain search warrants but broad enough to protect the identity of the informant; and the fourth student is writing a legal opinion that will support a proposed departmental policy to limit the public availability of arrest records.

Chief Frank Ramon in Seattle deserves untold credit for engineering these activities.

In Oakland, the Lawyers' Committee has given the Police Department some very direct legal assistance by providing us an attorney, Miss Linda Rodgers, three days each week to assist me with whatever projects I designate. (I should add that it is she who serves as Legal Advisor in Seattle, two days each week, an arrangement made possible by the Seattle Police Department and the Lawyers' Committee.) She has prepared a Training Bulletin on field interrogations, a general

order on admonitions, and is now organizing a charitable association that will funnel tax-exempt donations into our community relations program. These efforts, of course, are all forwarded to the national Committee, which, in turn, distributes them to other cities. Miss Rodgers has recently received a grant from the Department of Justice to seek to involve the bar in Oakland, as has been done in Seattle, in the quest for solutions to problems of police-community tensions. Several projects that we already anticipate submitting to such a committee are the development of procedures for the issuance of citation in lieu of arrest and summons in lieu of warrant, the development of new methods for dealing with landlord-tenant disputes and with husband-wife assaults--both of which are exacerbative of good police relations with the people they serve. The Alameda County Bar Association has already come forward in times of threatened disorder and provided a list of attorneys on call to represent prisoners on a voluntary basis. We are hopeful of formalizing such an arrangement so that it could be implemented directly through our Department.

I have referred either to specific areas in which the Bar has already come to the aid of law enforcement or to those projects immediately contemplated. The list is by no means exhaustive. The law explosion provides unending tasks for law enforcement, many of which would benefit by the introduction of legal skills. Training bulletins on legal subjects are in need of constant attention. The alcoholic should be removed from the process of criminal justice, unless his behavior otherwise constitutes a crime. Attorneys can be utilized to ride with patrolmen or specialized units to watch for areas in which the laws or procedures under the laws could be made more effective. Whether a particular set of circumstances would support an abatement proceeding against a house of prostitution, for example, is a question that might arise when lawyers ride with patrol.

Still another significant role exists for the organized bar--the role of explanation. Many police-community relations problems arise because of misunderstanding and misinformation about police authority. A black woman, the victim of a minor assault unwitnessed by police, may attribute to police prejudice an officer's failure to arrest the assailant, when the fact is that police have no power to arrest for misdemeanors occurring beyond their presence. Similarly, a woman whose husband has violated a restraining order by entering her place of residence may not understand why the police cannot arrest him for being there. Victims of roving bands of teenagers bent on malicious destruction of property or theft often expect far more of police capabilities than they are able to deliver. Often, too, the police are blamed when criminals are returned by the courts to the communities they have victimized in the past. And the greater use of deadly force by law enforcement is often advocated from the right in instances where deadly force would be improper or unnecessary.

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The Bar would perform an extremely valuable public service by seeking to educate the public as to the parameters of police authority, and the reasons why the limitations have been imposed.

Gerald Caplan, in an article about police legal advisors prepared for the President's Crime Commission, predicted that city and prosecuting attorneys would oppose the police legal advisor program-- and thus, presumably a fortiori, would oppose assistance from the organized bar. Our experience indicates that the contrary is true. City and prosecuting attorneys have welcomed assistance and new ideas. It is widely recognized that prosecutors and city attorneys are overburdened. This they will readily admit. Moreover, their function traditionally has not extended to the police-policy implementation level. And finally, the program we contemplate and describe is always conducted under the ultimate authority and with the final approval of both city and prosecuting attorneys in all instances in which their jurisdiction would even arguably be encroached upon.

Once a working relationship is developed between the Bar and the police, an even greater opportunity arises for mutual reliance, and the possibilities for assistance become unlimited. The most important first step is the establishment of the mechanism in the organized bar-- the committees from both the senior and junior bar groups.

One argument often advanced by private attorneys called upon to assist is "Why can't the city attorney do it? Isn't this his job?" Unquestionably, many of these problems are the responsibility of either the city attorney, the prosecuting attorney, or the police themselves. But that fact does not ensure that we are equal to the task. Our cities, and primarily our police systems, are faced with a crisis of unprecedented proportions. We are confronted by militant groups whose primary goals are to embarrass police. We face major disorders and mass arrest situations--almost impossible to handle without error, if only because of the enormity of logistical and administrative problems--and inevitably we mishandle some situations. These incidental shortcomings are seized upon by the press, blown far beyond their actual significance, and made to appear outrageous and even conspiratorial. Attention that was originally focused at the militant groups shifts its focus toward the police authorities, with greater polarization between the two resulting.

It is incumbent upon law enforcement, as the symbol and representative of the legal system we all revere, not only to perform without fault but to perform without the appearance of fault, even when such performance is seemingly beyond reach. We need assistance in shouldering this heavy responsibility. Law enforcement, moreover, is sometimes expected to solve "its own community-relations problems." These problems, in my view, are the result of conditions of poverty and only manifest themselves as hostility toward police. Solutions cannot be accomplished by law enforcement single-handed, although we recognize the role that we must play. In so doing, however, we neces-

sarily assume legal and social welfare tasks for which we are ill-prepared. The problems we face--and they are the problems of the nation--are so overwhelming and the stakes so great, that law enforcement cannot be asked to face them alone. The task demands a major commitment from the organized legal profession. Even now may be too late.

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